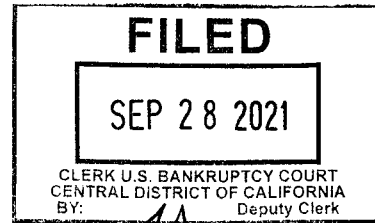


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6 Attorneys for Creditor Aragon Construction, Inc.



BY FAX

7
8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION
10

11 In re
12 THE SOURCE HOTEL, LLC,
13 Debtor.
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Case No. 8:21-bk-10525-ES
Chapter 11

**SURREPLY AND FURTHER
OBJECTION OF CREDITOR ARAGON
CONSTRUCTION, INC. TO REPLY
BRIEF OF DEBTOR TO OBJECTION TO
DEBTOR'S MOTION FOR ENTRY OF
ORDER: (1) AUTHORIZING SALE OF
SUBSTANTIALLY ALL OF THE
DEBTOR'S ASSETS; (2) AUTHORIZING
THE DEBTOR'S ASSUMPTION AND
ASSIGNMENT OF GROUND LEASE
AND DETERMINING CURE AMOUNT;
(3) WAIVING THE 14-DAY STAY
PERIODS SET FORTH IN
BANKRUPTCY RULES 6004(H) AND
6006(D); AND (4) GRANTING RELATED
RELIEF; DECLARATION OF DUSTIN
LOZANO**

Date: September 30, 2021
Time: 2:00 p.m.
Place: ZoomGov

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**Aragon Requests That The Court Consider This Surreply Because Debtor Raised New
Issues In Its Reply That Are Essential To The Determination Of The Motion**

Leave of court to file a surreply is proper when a reply brief raises new issues. *Gebretsadike v. Travelers Home & Marine Ins. Co.* 103 F.Supp.3d 78, 86 (D. D.C. 2015). Here, Aragon requests leave of court to file this surreply and further objection because Debtor raises new issues in its reply. Specifically, Debtor contends for the first time that Shady Bird's deed of trust takes priority over Aragon's mechanics lien because Aragon commenced work after Shady Bird's deed of trust was recorded. Reply, 10:3-18. Debtor did not raise this issue in its Motion. And this is not the law.

If construction commences before a deed of trust is recorded, mechanics liens have priority and all mechanics lien claims relate back to commencement. *In re Showplace Square Loft Co., LLC* (Bankr. N.D. Cal. 2003) 289 B.R. 403, 407. Debtor's Motion concedes that hotel development began in 2014. Motion, 7:17-18. And Google Maps images show that the hotel was built as of May 2016 (before recording of Shady Bird's deed of trust). Declaration of Dustin Lozano. Hence, Construction commenced prior to the recording of Shady Bird's deed of trust, and Aragon's mechanics lien claim is senior to the junior lien of Shady Bird.

DATED: September 28, 2021

HUNT ORTMANN PALFFY
NIEVES DARLING & MAH, INC.

By: 

DUSTIN LOZANO
Attorneys for Creditor Aragon Construction, Inc.

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DECLARATION OF DUSTIN LOZANO

I, Dustin Lozano, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an associate with Hunt Ortmann Palfy Nieves Darling & Mah, Inc., attorneys of record for Creditor Aragon Construction, Inc. I have personal knowledge of the facts stated herein except where stated upon information and belief.

2. On September 28, 2021, I entered the address of the Source Hotel, 6940 Beach Blvd., Buena Park, CA 90621, into the Google Maps search bar on my computer and viewed the picture of the hotel as of May 2016. This was before Shady Bird's predecessor recorded its deed of trust. The picture shows that the hotel was constructed at that time. A true and correct screenshot copy of the picture of the Source Hotel from Google Maps as of May 2016 is attached hereto as **Exhibit A**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

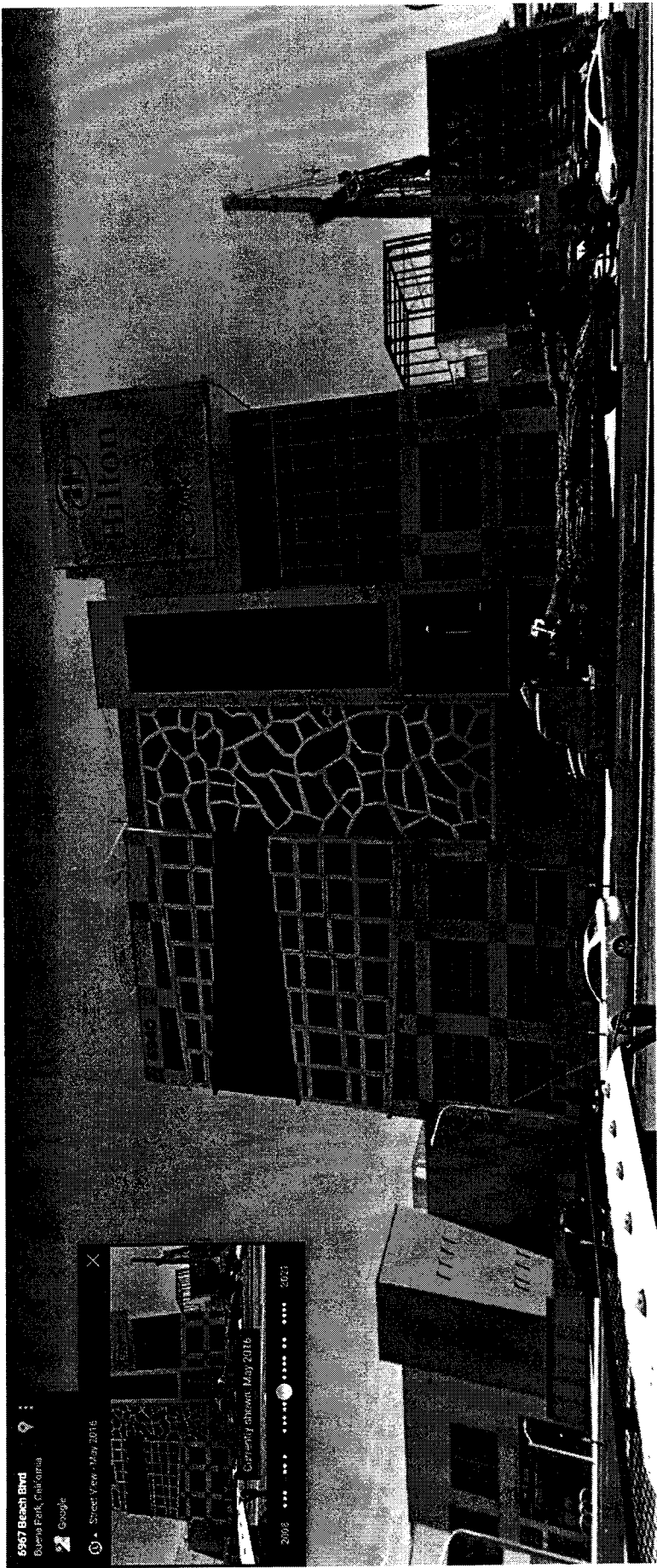
Executed on this 28th day of September, 2021, at Pasadena, California.



Dustin Lozano

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EXHIBIT A



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of . My business address is 301 North Lake Avenue, 7th Floor, Pasadena, CA 91101-1807.

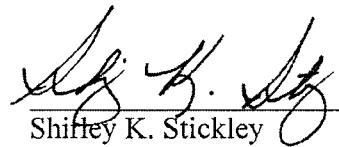
On September 28, 2021, I served the following document(s) described as **SURREPLY AND FURTHER OBJECTION OF CREDITOR ARAGON CONSTRUCTION, INC. TO REPLY BRIEF OF DEBTOR TO OBJECTION TO DEBTOR'S MOTION FOR ENTRY OF ORDER: (1) AUTHORIZING SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS; (2) AUTHORIZING THE DEBTOR'S ASSUMPTION AND ASSIGNMENT OF GROUND LEASE AND DETERMINING CURE AMOUNT; (3) WAIVING THE 14-DAY STAY PERIODS SET FORTH IN BANKRUPTCY RULES 6004(H) AND 6006(D); AND (4) GRANTING RELATED RELIEF; DECLARATION OF DUSTIN LOZANO** on the interested parties in this action by placing thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I am "readily familiar" with Hunt Ortmann Palffy Nieves Darling & Mah, Inc.'s practice for collecting and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Pasadena, California, on that same day following ordinary business practices.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 28, 2021, at Pasadena, California.


Shifley K. Stickley

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